the direction of a president and twelve directors. They held, notwithstanding the fact that the bank was exclusively the property of the State, that the notes were not '' bills of credit " within their definition, which included only " paper issued by the authority of a State on the faith of the State, and designed to circulate as money/' [J]

The mania for banks of State was already well on its course before this decision was made. The Commonwealth of Kentucky had been part owner in the Bank of Kentucky, incorporated in 1806, and owned $586,400 of the capital stock of $2,726,100 when the charter was repealed in 1822. The Bank of Kentucky was hampered throughout its career by State interference, but was paying specie and its stock was at par when the State decided to set up a rival under its own exclusive ownership and management. The new-comer was the Bank of the Commonwealth of Kentucky, chartered for twenty years by the Act of November 29, 1820, with a capital of $2,000,000, which was increased December 22, 1820, to $3,000,000. The State availed itself of the power to appoint additional directors in the old bank to pack the board with pliant tools, who soon effected its ruin for the benefit of the new institution. The Bank of the Commonwealth, however, was a pitiable failure. Its notes had fallen on March 22, 1822, to sixty-two and a half cents on the dollar and they continued to fall until the entire State was embroiled in a legal controversy which almost ended in

[1] Brisco *vs.* Bank of Kentucky is reported in n Peters, 257. Prof. Simmer declares that by this decision "wildcat banking was granted standing ground under the Constitution " and that "the decisions of the Supreme Court on the constitutionality of the I^egal Tender Act must have borne an entirely different color, if Marshall's opinion had prevailed in Brisco's case."—Andrew Jackson, 363. Judge Story went so far, in his Commentaries on the Constitution, as to intimate that if the question were a new one, it would be doubtful if the States h.ad power under the Constitution to incorporate banks of issue ; but it is obvious that the permission to issue notes, circulating, like other commercial paper, upon private credit, is very different from the issue under public authority of legal tender money.—Kent, *Commentaries,* I., 408.